

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

IN THE UNITED STATES DISTRICT COURT  
OF THE EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

KYLE E. NORTH,

Plaintiff,

vs.

CITY OF PULLMAN POLICE  
DEPARTMENT, DOUG ANDERSON,  
an individual, MICHAEL  
SONTGERATH, an individual, GARY  
JENKINS, an individual, and  
CHRISTIAN TENNANT, an individual,

Defendants.

Case No. 2:18-cv-00260 SMJ

ANSWER TO PLAINTIFF'S  
COMPLAINT FOR DAMAGES

**WITH JURY DEMAND**

**PRELIMINARY STATEMENT**

The great majority of the factual allegations contained in plaintiff's  
Complaint are based on video and audio from Officers Sontgerath and  
Anderson's body cams, and the Jack in the Box security videos. Counsel for

1 defendants has reviewed the body cam and surveillance video and made a good  
2 faith effort to respond to plaintiff's allegations based on that review. However,  
3  
4 due to background noise in the Jack in the Box, persons sometimes talking over  
5 one another and at various volume levels, and limitations in the equipment used  
6  
7 to view and listen to the video, it is possible that some purported statement or  
8  
9 event actually depicted in the audio/video was missed or misheard. Accordingly,  
10  
11 to the extent that the audio/video reflects words spoken or events that occurred,  
12  
13 in a way that conflicts with defendants' response to plaintiff's specific  
14  
15 allegations, defendants accept the audio/video.

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
**ANSWER**

Defendants City of Pullman Police Department, Doug Anderson, Michael  
Sontgerath, Gary Jenkins, and Christian Tennant, by and through their  
undersigned counsel, answer plaintiff's Complaint for Damages as follows:

**PARTIES**

1. On information and belief, defendants admit that, during the  
academic year, North resides in Pullman, Washington. On information and  
belief, defendants also admit that plaintiff's permanent residence is in Poulsbo,  
Washington in Kitsap County. The remaining allegations set forth in this  
paragraph of plaintiff's Complaint are denied for lack of knowledge.

2. Deny for lack of knowledge.

1           3.     Deny that defendant City of Pullman Police Department (PPD) is a  
2     municipal entity existing pursuant to and under the laws of the City of Pullman  
3     and the State of Washington. Admit that the PPD conducts its operations in part  
4     in the City of Pullman, located in Whitman County, Washington. Admit that the  
5     PPD receives some federal funds under federal programs and statutes. The  
6     allegation(s) regarding PPD's duties and responsibilities constitute a legal  
7     conclusion. Accordingly, those allegations are neither admitted nor denied.  
8  
9

10  
11  
12           4.     Admit that defendant Douglas Anderson is a law enforcement  
13     officer with the PPD. Admit that, at all times alleged in plaintiff's Complaint,  
14     Officer Anderson was acting within the course and scope of his employment and  
15     under the color of law. Admit that Officer Anderson resides in Whitman  
16     County, Washington. The allegation regarding Officer Anderson's duties and  
17     responsibilities constitutes a legal conclusion and, accordingly, that allegation is  
18     neither admitted nor denied.  
19  
20  
21

22           5.     Admit that defendant Michael Sontgerath is a law enforcement  
23     officer with the PPD. Admit that, at all material times, Officer Sontgerath was  
24     acting within the course and scope of his employment and under the color of law.  
25     Admit that Officer Sontgerath resides in Whitman County, Washington. The  
26     allegation regarding Officer Sontgerath's duties and responsibilities constitutes a  
27     legal conclusions. Accordingly, that allegation is neither admitted nor denied.  
28  
29  
30

1           6. Admit that defendant Gary Jenkins is the PPD Chief of Police.  
2  
3 Deny the broad allegation that Chief Jenkins is “responsible for planning,  
4 creating, implementing and enforcing all policies of the PPD,” with the  
5 qualification that Chief Jenkins has a role in creating and enforcing PPD policy.  
6  
7 The allegations regarding Chief Jenkins’ duties and responsibilities constitute  
8 legal conclusions and, accordingly, they are neither admitted nor denied. Admit  
9 that Chief Jenkins resides in Whitman County, Washington.  
10

11  
12           7. Admit that defendant Christian Tennant is the Operations  
13 Commander with the PPD. Admit that Commander Tennant has some  
14 responsibility for managing PPD officer training. Admit that, as the Operations  
15 Commander, Commander Tennant serves as the acting Chief of Police in Chief  
16 Jenkins’ absence. Admit that Commander Tennant reports directly to Chief  
17 Jenkins. Admit that Commander Tennant resides in Whitman County,  
18 Washington. The allegations regarding Commander Tennant’s duties and  
19 responsibilities constitute legal conclusions and, accordingly, they are neither  
20 admitted nor denied.  
21  
22  
23  
24

25           8. Admit that the acts and omissions attributed to the individual  
26 defendants were carried out within the course and scope of the individual  
27 defendant’s employment. Admit that the acts/omissions alleged were consistent  
28 with the PPD’s policies and practices. Deny that the PPD, Chief Jenkins and  
29  
30

1 Commander Tennant “ratified” the conduct of each of the individual defendants  
2 to the extent the term “ratified” is used in an effort to establish *Monell* liability.  
3  
4 Deny that any of the defendants acted with the deliberate and intentional  
5 indifference and/or willful disregard for the rights, safety and wellbeing of  
6 plaintiff. In all other respects, the allegations set forth in this paragraph of  
7 plaintiff’s Complaint are denied.  
8  
9

10 9. Admit that, at all times material hereto, the individual defendants  
11 were acting within the course and scope of their employment with the City of  
12 Pullman. Deny that an agency relationship existed among and between the  
13 individual defendants.  
14  
15

16 10. As the allegations set forth in this paragraph of plaintiff’s Complaint  
17 constitute a legal conclusion, the allegations are neither admitted nor denied.  
18

19 **JURISDICTION & VENUE**  
20

21 11. Admit this Court has original jurisdiction over plaintiff’s federal  
22 claims, and supplemental jurisdiction over plaintiff’s state law claims. Admit  
23 that venue is proper in the United States District Court for the Eastern District of  
24 Washington.  
25  
26

27 12. Admit.  
28  
29  
30

**FACTUAL ALLEGATIONS**

13. This paragraph of plaintiff's Complaint does not allege specific facts from which this case arises. Rather, it is a general statement regarding the role of "local police." As this paragraph of plaintiff's Complaint does not allege specific facts regarding any of the named defendants, the allegations in this paragraph of plaintiff's Complaint are neither admitted nor denied.

14. Admit that officers of the PPD are required to undergo periodic training in "use of force." Admit that officers of the PPD are sometimes called upon in non-criminal situations to provide or facilitate health and/or safety assistance to citizens. Admit that the law currently requires officers of the PPD to complete specialized training entitled "Crisis Intervention Training" (CIT) and that CIT training is overseen by the Washington State Criminal Justice Training Commission.

15. This paragraph of plaintiff's Complaint consists of plaintiff's interpretation of CIT training, along with argumentative assertions regarding that training. Because no specific curriculum is identified that would allow defendants to evaluate the accuracy of the allegations, they are denied for lack of knowledge.

16. This paragraph of plaintiff's Complaint consists of plaintiff's interpretation of CIT training, along with argumentative assertions regarding that

1 training. Because no specific curriculum is identified that would allow  
2 defendants to evaluate the accuracy of the allegations, they are denied for lack of  
3 knowledge.  
4

5 17. Defendants admit it is likely PPD officers sometimes encounter  
6 persons with Schizophrenia and Schizoaffective Disorder, with the qualification  
7 that officers are not qualified to diagnose mental conditions or disorders and that  
8 officers may encounter individuals who have been given that diagnoses and who  
9 qualify for that diagnosis, without officers being aware of that. Otherwise,  
10 because this paragraph of plaintiff's Complaint consists of argumentative  
11 assertions about those mental disorders, the allegations are denied.  
12  
13  
14  
15

16 18. This paragraph of plaintiff's Complaint appears to be a recitation of  
17 portions of written CIT training materials. Because no specific CIT curriculum  
18 is identified, and because responding to each and every assertion in this  
19 paragraph of plaintiff's Complaint regarding CIT curriculum would require  
20 defendants to research that specific written curriculum, the allegations are denied  
21 for lack of knowledge.  
22  
23  
24

25 19. Admit that Officers Anderson and Sontgerath completed the  
26 required CIT course on March 30 and 31, 2016, respectively. Admit that  
27 Officers Anderson and Sontgerath were thus trained on the components of the  
28 CIT curriculum presented to them on March 30 and 31. But because this  
29  
30

1 paragraph of plaintiff's Complaint refers to the "foregoing tenants" of CIT  
2 training, no specific written curriculum is identified and answering the allegation  
3 that the officers were trained on the "foregoing tenants" would require  
4 defendants to research all aspects of the specific CIT written curriculum from  
5 which these allegations are derived, the allegations contained in this paragraph of  
6 plaintiff's Complaint are otherwise denied for lack of knowledge.  
7  
8  
9

10 20. Admit that officers with the Pullman Police Department are  
11 authorized to use various methods of force when carrying out their law  
12 enforcement duties. Admit that force options include the taser and the lateral  
13 vascular neck restraint (LVNR). Admit that both methods require specialized  
14 training. Admit that the PPD Policy and Procedures Manual requires all officers  
15 to undergo specialized training designed, in part, to "enhance the member's  
16 discretion, judgment and skill in using use of force options."  
17  
18  
19  
20

21 21. Admit that all PPD officers are required to complete a six hour  
22 initial certification course in order to use a taser in the line of duty. Admit that  
23 the course curriculum was developed by Taser International, now Axon  
24 Enterprise, Inc., the manufacturer of the tasers used by the PPD. Admit that PPD  
25 written policy requires officers to complete an annual recertification course and  
26 pass a deployment test. Admit that PPD's written policy provides that before an  
27  
28  
29  
30



1 officer is allowed to carry a taser, he must complete and pass the annual  
2 recertification training.  
3

4 22. Admit that Officer Anderson did not participate in taser re-  
5 certification training in 2015 or 2016. Admit that, according to PPD's written  
6 policy, Officer Anderson was thus not "authorized" to carry or use a taser at the  
7 time of the incident alleged, with the qualification that, because of his prior  
8 training, Officer Anderson was fully qualified to carry and use a taser, as  
9 evidenced by the manner in which the taser was deployed in this incident.  
10  
11

12 23. Admit that LVNR is a force technique that can be used to restrain or  
13 control a person, including subjects who are resisting being taken into custody.  
14 Admit that the technique works by reducing the circulation of blood to the brain  
15 until the subject either stops resisting or loses consciousness. Admit that the  
16 technique involves the officer placing his or her arm around the neck of the  
17 subject and applying pressure to the carotid arteries on either side of the neck and  
18 then increasing the pressure until the objective is achieved. Admit that LVNR is  
19 an effective law enforcement tool and, like other law enforcement tools, can be  
20 dangerous if not performed correctly. Admit that, before the technique can be  
21 deployed, an officer must complete an eight hour initial training course  
22 developed by the National Law Enforcement Training Center. Admit that the  
23 PPD policy manual requires PPD officers to successfully complete an annual  
24  
25  
26  
27  
28  
29  
30

1 recertification training course. Admit that, according to the PPD manual,  
2 officers who fail to complete the annual recertification training are not  
3 specifically authorized to use LVNR.  
4

5 24. Admit that Officer Anderson did not undergo LVNR recertification  
6 training in any year after 2013. Admit that, according to PPD written policy,  
7 Officer Anderson was thus not “authorized” to use LVNR at the time of the  
8 events alleged herein, with the qualification that Officer Anderson was fully  
9 qualified to utilize the technique, as evidenced by the manner in which he  
10 deployed the technique in this instance.  
11  
12  
13

14  
15 **ALLEGATIONS GIVING RISE TO CLAIM**

16 25. Deny for lack of knowledge.  
17

18 26. Deny for lack of knowledge.  
19

20 27. Admit that the Moscow Police issued a welfare check and contacted  
21 the Pullman Police Department for assistance. Admit that Officer Sontgerath  
22 was on duty at the time and responded to the request by searching for North’s  
23 Lexus around NE Lower Drive in Pullman. Admit that Officer Sontgerath  
24 responded to NE Lower Drive and searched for the vehicle, but that he was  
25 unable to locate it. Admit that he advised dispatch of that. The remaining  
26 allegations set forth in this paragraph of plaintiff’s Complaint are denied.  
27  
28  
29  
30

1           28. Admit that, at approximately 3:10 a.m. on the morning of August  
2  
3 18, 2016 North walked into the Jack in the Box restaurant on NE Stadium Way  
4 in Pullman and approached an individual later determined to be the night  
5 manager. Admit that this person called dispatch and stated that a male inside the  
6 business, later determined to be North, was very agitated and looked scared.  
7 Admit that this person, later determined to be Olin Braun, the night manager,  
8 called 911 at North's request. The remaining allegations contained in this  
9 paragraph of plaintiff's Complaint are denied for lack of knowledge.  
10  
11  
12

13           29. Admit that Officer Sontgerath and Officer Anderson arrived at JIB  
14 in separate cars. Admit that both were wearing police body cams that captured  
15 events that transpired after the officers entered JIB, both on video and audio.  
16 Admit that events were also captured on JIB's surveillance system which  
17 consisted of four cameras positioned in the restaurant. Otherwise, the allegations  
18 set forth in this paragraph of plaintiff's Complaint are denied.  
19  
20  
21

22           30. Deny that, upon entering the restaurant, both officers knew North  
23 was the subject of an earlier welfare check issued by the Moscow Police  
24 Department. Admit that both officers eventually witnessed North exhibiting  
25 behaviors, and making statements consistent with a mental health problem, but  
26 also consistent with a drug overdose or reaction. Admit that, at various times,  
27 while interacting with Officer Sontgerath and Anderson, North was rotating his  
28  
29  
30

1 right hand and snapping his right fingers. Admit that North also made comments  
2 about the girl he was with earlier, whom officers eventually learned to be Ms.  
3 Fountain. The remaining allegations set forth in this paragraph of plaintiff's  
4 Complaint are denied as phrased.  
5  
6

7 31. Admit that, while talking with officers, North removed Fountain's  
8 wallet and phone from his pocket. Admit that, at some point, Officer Sontgerath  
9 patted North down and did not find any weapons, alcohol or illegal drugs.  
10 Otherwise, the allegations contained in this paragraph of plaintiff's Complaint  
11 are denied as phrased.  
12  
13  
14

15 32. Admit that, at this point during their interaction with North, the  
16 officers did not assure North that Fountain was safe, with the qualification that,  
17 at this time, Officers Sontgerath and Anderson were unaware of that. Admit that  
18 North asked Officer Sontgerath if the two of them could sit down and talk, and  
19 that Officer Sontgerath, for officer safety reasons, refused to sit down with  
20 North, with the qualification that North later asked Officer Sontgerath if he  
21 (North) could sit down and Officer Sontgerath allowed North to do that.  
22  
23  
24

25 33. Admit that, at some point after North sat at a small table, Officer  
26 Sontgerath asked North if he wanted to go talk to a mental health professional.  
27 Admit that North eventually stated he wanted to go to the hospital to talk to a  
28 mental healthcare professional and indicated he would like Officer Sontgerath to  
29  
30

1 go there with him, and that North made statements indicating he was willing to  
2 follow Officer Sontgerath to the hospital. Admit that Officer Sontgerath stated  
3 “Why don’t we go do that,” referencing North following him to the hospital.  
4 Deny that Officer Sontgerath confirmed that North was not under the influence  
5 of drugs. Admit that Officer Sontgerath discussed with North Officer Sontgerath  
6 driving to the hospital with North following. In all other respects, the allegations  
7 contained in this paragraph of plaintiff’s Complaint are denied.  
8  
9  
10  
11

12 34. Admit that, after Officers Sontgerath and North had a discussion  
13 about North following Officer Sontgerath to the hospital, North made the  
14 statement referenced. Otherwise, the allegations contained in this paragraph of  
15 plaintiff’s Complaint are denied as phrased and characterized.  
16  
17

18 35. Admit that Officer Sontgerath, after hearing North utter the words  
19 referenced, stated “What Kyle?” Admit that, after Officer Sontgerath said “What  
20 Kyle?” Officer Sontgerath and North exchanged additional words, including the  
21 words quoted.  
22  
23

24 36. Admit that, at this point, North stood up and began moving toward  
25 the door. Admit that North asked Officer Sontgerath to go out the door first.  
26 Admit that Officer Sontgerath refused, with the qualification that this was for  
27 officer safety reasons, and that Officer Sontgerath made the statement quoted.  
28  
29  
30

1 The remaining allegations set forth in this paragraph of plaintiff's Complaint are  
2 denied as characterized and phrased.  
3

4 37. Admit that, after Officer Sontgerath told North that he was going to  
5 walk behind North, and North was not going to walk behind him, North began to  
6 walk backward, away from officers, and stated, among other things, "But I'm  
7 following you there?" The allegation regarding the amount of time that had  
8 passed since Officer Sontgerath arrived at JIB is denied for lack of knowledge,  
9 with the qualification that defendants do not dispute that the amount of time was  
10 13 minutes if that is what the body cam videos reveal the elapsed time to have  
11 been. Admit that, at some point, Officer Sontgerath stated: "I'm not here to play  
12 games, Kyle." The remaining allegations set forth in this paragraph of plaintiff's  
13 Complaint are denied as phrased/characterized.  
14  
15

16 38. Admit that, after Officer Sontgerath stated "I'm not here to play  
17 games, Kyle," North moved away from the exit door and went and stood next to  
18 a wall at the end of the service counter. The remaining allegations set forth in  
19 this paragraph of plaintiff's Complaint are denied as phrased/characterized.  
20  
21

22 39. Admit that Officer Sontgerath told North he would get arrested if he  
23 went back behind the service counter. Admit that North made the statement "Of  
24 course not" in reference to him going behind the service counter. The remaining  
25 allegations set forth in this paragraph of plaintiff's Complaint are denied.  
26  
27  
28  
29  
30

1           40. Admit that Officer Sontgerath, at some point made the statement to  
2 North, when North was standing against the wall at the end of the service  
3 counter, that if Officer Sontgerath needed to take North to the hospital himself,  
4 he would. Admit that, at some point during this exchange or this interaction with  
5 Officer Sontgerath, North made the statement “What are they trying to do to  
6 me?” Otherwise, the allegations contained in this paragraph of plaintiff’s  
7 Complaint are denied.  
8  
9  
10

11           41. Admit that, at one point, while still standing against the wall, North  
12 put his hands together in a praying gesture and stated that he wanted to call his  
13 parents. Admit that North then displayed behavior and made statements  
14 consistent with a hallucination. Admit that, at some point, North made the  
15 statement that he wanted a drink of water. Otherwise, the allegations contained  
16 in this paragraph of plaintiff’s Complaint are denied as phrased/characterized.  
17  
18  
19  
20

21           42. Admit that, at this point, North began to walk toward the officers,  
22 and Officer Sontgerath grabbed North by both wrists, with the qualification that  
23 Officer Sontgerath, at this point, had decided to take North into protective  
24 custody. Deny that Officer Sontgerath pushed North up against a wall. Admit  
25 that Officer Sontgerath stated that if North fought him, he was going to “get  
26 hurt”, meaning that if North resisted, officers might be compelled to use pain  
27 compliance techniques which, by definition, cause pain. Admit that North made  
28  
29  
30

1 the statement “Yes sir” at some point, with the qualification that he continued to  
2 resist. Otherwise, the allegations set forth in this paragraph of plaintiff’s  
3 Complaint are denied as phrased/characterized.  
4

5  
6 43. Admit that Officer Sontgerath eventually grabbed North’s right arm  
7 and Officer Anderson grabbed North’s left arm. Deny that North offered no  
8 resistance. Admit that Officer Sontgerath again stated that North was going to  
9 “get hurt,” in reference to the officers’ potential use of pain compliance  
10 techniques. Admit that both officers pulled North’s arms behind his back for the  
11 purpose of placing North in handcuffs, and pushed North to his knees and then  
12 face down onto the floor. Deny that North did not resist. Admit that Officer  
13 Sontgerath again stated North was going to get hurt, in reference, again, to the  
14 use of pain compliance techniques if North continued to resist. Otherwise, the  
15 allegations set forth in this paragraph of plaintiff’s Complaint are denied as  
16 phrased/characterized.  
17  
18  
19  
20  
21

22 44. Admit that, at some point, while North was face down on the floor,  
23 he screamed out and stated that “He broke my arm.” Otherwise, the allegations  
24 set forth in this paragraph of plaintiff’s Complaint are denied as  
25 phrased/characterized.  
26  
27

28 45. Admit that Officer Sontgerath proceeded to place North in  
29 handcuffs and informed North he was in protective custody and was going to be  
30



1 taken to the hospital and that he was expected to cooperate. Otherwise, the  
2 allegations set forth in this paragraph of plaintiff's Complaint are denied as  
3 phrased/characterized.  
4

5 46. Deny for lack of knowledge that North was developing  
6 rhabdomyolysis. Deny that Officer Sontgerath showed no concern for North's  
7 welfare. Admit that, at some point, Officer Sontgerath and North made the  
8 quoted statements. However, plaintiff's argumentative characterization of these  
9 statements is denied.  
10  
11  
12

13 47. The allegations contained in this paragraph of plaintiff's Complaint  
14 are argumentative, and essentially constitute plaintiff's counsel's interpretation  
15 of the facts. Accordingly, the allegations in this paragraph of plaintiff's  
16 Complaint are denied.  
17  
18

19 48. Admit that, after North was handcuffed, officers brought North to  
20 his feet and ordered him to walk toward the door of the restaurant. Admit that,  
21 as they passed the small office, North hooked his leg inside the office door and  
22 dropped to the ground with his upper torso in the office and his right leg  
23 extended out of the office. Admit that, during this stage of the encounter, North  
24 uttered the quoted words. In all other respects, the allegations contained in this  
25 paragraph of plaintiff's Complaint are denied.  
26  
27  
28  
29  
30

1           49. Admit that Officer Sontgerath then asked one of the JIB employees  
2 to call paramedics, stating that North would need to be transported to the  
3 hospital. Admit that, with North on the floor in the small office and his hands  
4 cuffed behind him, Officer Anderson pressed down on North's arms, with the  
5 qualification that this was in response to North continuing to struggle and resist.  
6 Admit that, at some point, in the context of North's resistance to the officers'  
7 efforts to remove him from the small office, Officer Anderson made the quoted  
8 statement.  
9

10           50. Admit that North, at some point while in the small office, began to  
11 make statements that could be described as praying. Admit that Officer  
12 Anderson, during this stage of the encounter, shouted commands at North,  
13 including the demand that he straighten out his legs. Admit that, as a reaction to  
14 North's resistance, Officer Sontgerath, at some point, stated that North was "Not  
15 going anywhere."  
16

17           51. Admit that, at this point, North remained on the floor of the small  
18 office and continued resisting the officers' efforts to remove him. Admit that,  
19 during this stage of the encounter, North made statements consistent with him  
20 praying and that the statements included the quoted language. Admit that, at  
21 some point during this stage of the encounter, Officer Anderson stated that North  
22  
23  
24  
25  
26  
27  
28  
29  
30

1 should pray for himself. In all other respects, the allegations contained in this  
2 paragraph of plaintiff's Complaint are denied.  
3

4 52. Admit that, while officers waited for paramedics to arrive, North  
5 remained handcuffed and on the office floor, and that he continued to make  
6 statements consistent with praying. Admit that officers continued their efforts to  
7 remove North from the small office. Admit that officers' efforts included  
8 grabbing North's right leg and Officer Anderson grabbing North's arm in an  
9 attempt to pull North out of the small office. Admit that North resisted these  
10 efforts and that the resistance included him screaming and pushing off the office  
11 wall with his left leg. Admit that North eventually ended up partially under a  
12 small desk with his head between a metal rack and a filing cabinet.  
13  
14  
15  
16

17 53. Admit that Officer Anderson, in a continued effort to subdue North  
18 and remove him from the small office, attempted to lift North to a standing  
19 position. Admit that Officer Anderson, at some point, and in response to North's  
20 continued resistance, applied his taser to North three times in drive stun mode.  
21 Admit that, during this course of officers' encounter with North, Officer  
22 Anderson did state, with respect to his efforts to get North out from under the  
23 small table and out of the small office "Get out!"  
24  
25  
26  
27

28 54. Admit that the taser report indicates Officer Anderson's  
29 deployments of the taser in drive stun mode totaled 16 seconds of current.  
30

1 Admit that, at one point, North made the statement about repenting. Admit that,  
2 after the drive stuns had no apparent effect and North continued to resist, Officer  
3 Anderson stated to North “I’m gonna put you out.” in deference to Officer  
4 Anderson’s decision to deploy a lateral vascular neck restraint as a way to  
5 control North and remove him from the small office. Admit that, at some point,  
6 North uttered the quoted words, with the qualification that, despite these  
7 statements, he continued to resist.  
8  
9  
10

11  
12 55. Admit that Officer Anderson eventually placed his left arm around  
13 North’s neck in a lateral vascular neck restraint and that, while doing this, he  
14 brought North to a standing position while telling North to “get up.” The  
15 remaining allegations contained in this paragraph of plaintiff’s Complaint are  
16 denied for lack of knowledge.  
17  
18

19 56. Admit that, after North continued to resist, Officer Anderson  
20 applied the lateral vascular neck restraint to the point where the desired result  
21 was achieved and North lost consciousness and fell silent. Admit that, at some  
22 point during this process, North stated “help me.” Admit that Anderson asked  
23 Officer Sontgerath if North was “out” and that Officer Sontgerath confirmed that  
24 he was, and that North was then lowered to the floor. The remaining allegations  
25 contained in this paragraph of plaintiff’s Complaint are denied.  
26  
27  
28  
29  
30

1           57. Admit that while North was unconscious on the floor, Office  
2 Sontgerath pulled North to the area just outside the office. Admit that North  
3 remained unconscious for approximately 22 seconds. Admit that, after he woke  
4 up, North would have seen paramedics around him and that he uttered the quoted  
5 words. In all other respects, the allegations contained in this paragraph of  
6 plaintiff's Complaint are denied.  
7  
8  
9

10           58. Admit that after the paramedics administered the sedative Ketamine,  
11 Officer Sontgerath removed the handcuffs. Admit that North was then placed on  
12 a gurney and taken to the emergency room at Pullman Regional Hospital. Admit  
13 that, as a result of his struggle with officers and his refusal to comply with the  
14 officers' commands, North, in addition to an arm injury, had abrasions on his  
15 head, back, shoulders, neck, chest, lower lip and knees, as well as some bruising.  
16  
17  
18

19           59. Admit that, while North was at the emergency room, Dr. Brown  
20 asked Officer Sontgerath how the injuries happened, and that, as part of this  
21 explanation, Sontgerath stated that he had North's right arm behind his back and,  
22 at one point "reamed on it." Admit that Officer Sontgerath also stated that North  
23 was combative and that officers had no choice but to use the force that they  
24 ended up deploying. Admit that Officer Sontgerath also made a comment about  
25 officers returning safely to their families. Admit that Officer Sontgerath did not  
26 advise Dr. Brown of a many of details of the officers' encounter with North,  
27  
28  
29  
30

1 including the officers pulling on North's right arm, pressing on his right  
2 shoulder, and North's behavior in the small office, including refusing officers'  
3 commands and struggling with officers, North's no apparent reaction to the taser,  
4 and that Officer Anderson only deployed a lateral neck restraint to control North  
5 and remove him from the small office.  
6  
7

8  
9 60. Admit that Officer Sontgerath conceded that some of North's cuts  
10 and bruises were from his struggles with officers at JIB. The remaining  
11 allegations contained in this paragraph of plaintiff's Complaint are denied for  
12 lack of knowledge.  
13

14  
15 61. Admit.

16  
17 62. Admit that Officers Anderson and Sontgerath completed a post-  
18 incident "Use of Force" report, and that Commander Chris Tennant and Chief  
19 Jenkins reviewed both reports as well as both body cam videos. Admit that,  
20 because the officers' conduct was determined to be consistent with Department  
21 policies and procedures, no corrective action was taken against either officer and  
22 no further investigation was done. Admit that Officer Anderson's taser was not  
23 confiscated and that he continued to use it. Admit that Commander Tennant  
24 indicated in a use of force spreadsheet that North was under the influence of  
25 intoxicants, with the qualification that this was simply the result of Commander  
26  
27  
28  
29  
30

1 Tennant's review of the officers' use of force reports. The remaining allegations  
2 set forth in this paragraph of plaintiff's Complaint are denied.  
3

4 63. Deny for lack of knowledge.

5  
6 64. Deny.

7 **FIRST CLAIM FOR RELIEF**  
8 **Violation of 42 US § 1983: The Fourth Amendment**

9 65. Defendants reassert their answers to the allegations contained in  
10 paragraphs 1 through 64 of plaintiff's Complaint.  
11

12 66. As the allegations set forth in this paragraph of plaintiff's Complaint  
13 constitute legal conclusions, they are neither admitted nor denied.  
14

15 67. As the allegations set forth in this paragraph of plaintiff's Complaint  
16 constitute legal conclusions, they are neither admitted nor denied.  
17

18 68. Admit that North was not accused of any criminal activity or the  
19 subject of any civil complaint. Admit that North did not have a weapon. The  
20 remaining allegations set forth in this paragraph of plaintiff's Complaint are  
21 denied.  
22

23  
24 69. Deny.

25 70. Admit that by 3:40 a.m. North was handcuffed and face down on  
26 the floor of the JIB office. Admit that, at some point during the encounter with  
27 North, Officer Sontgerath made the comment that "he isn't going anywhere."  
28  
29  
30

1 Admit that, while North was in the small office, Officer Anderson tased North  
2 three times in rapid succession. Admit that, because North continued to struggle,  
3 and the tasing had no apparent effect, Officer Anderson then pulled North to a  
4 standing position and eventually rendered him unconscious via a lateral neck  
5 restraint. The remaining allegations set forth in this paragraph of plaintiff's  
6 Complaint are denied.  
7  
8  
9

10 71. Deny.  
11

12 72. Admit that Chief Jenkins and Commander Tennant have certain  
13 responsibilities for training. Otherwise, the allegations set forth in this paragraph  
14 of plaintiff's Complaint are denied.  
15

16 73. Deny.  
17

18 74. Admit that any time an officer uses a taser, electronic data from the  
19 taser is eventually downloaded to an evidence database. The remaining  
20 allegations set forth in this paragraph of plaintiff's Complaint are denied.  
21

22 75. Deny.  
23

24 76. Deny.  
25

26 77. Admit that Chief Jenkins and Commander Tennant have  
27 supervisory responsibility over Officers Sontgerath and Anderson. Admit that  
28 Officer Anderson was one of the officers dispatched to respond to the situation at  
29  
30



1 the Jack in the Box on August 18, 2016. The remaining allegations set forth in  
2 this paragraph of plaintiff's Complaint are denied.  
3

4 78. Deny.

5  
6 79. Admit that no disciplinary or corrective action has been taken  
7 against any officer in connection with the events of August 18, 2016. The  
8 remaining allegations set forth in this paragraph of plaintiff's Complaint are  
9 denied.  
10

11  
12 80. Admit that the PPD did not confiscate Officer Anderson's taser.  
13 The remaining allegations set forth in this paragraph of plaintiff's Complaint are  
14 denied.  
15

16 81. The remaining allegations set forth in this paragraph of plaintiff's  
17 constitute either a legal conclusion or argument regarding the law. Accordingly,  
18 the allegations are neither admitted nor denied.  
19

20  
21 82. The remaining allegations set forth in this paragraph of plaintiff's  
22 Complaint are denied as phrased.  
23

24 83. Deny.

25  
26 **SECOND CLAIM FOR RELIEF**  
27 **Negligence**

28 84. Defendants reassert their answers to the allegations contained in  
29 paragraphs 1 through 64 and 66 through 83 of plaintiff's Complaint.  
30

1           85. The first sentence of this paragraph of plaintiff's Complaint  
2 constitutes a legal conclusion. Accordingly, the allegation is neither admitted  
3 nor denied. Deny that defendants breached any duty owed to plaintiff.  
4

5           86. Deny.  
6

7           87. Because the allegations contained in this paragraph of plaintiff's  
8 Complaint essentially constitute argumentative statements regarding the officers'  
9 encounter with North, they are denied.  
10

11           88. Admit that, at one point, North stated "I'm one of you." Admit that  
12 Officer Anderson stated to North "you don't work here." Admit that, prior to the  
13 officers' arrival, North talked with JIB employees. The remaining allegations set  
14 forth in this paragraph of plaintiff's Complaint are denied.  
15  
16

17           89. Admit that, at one point during his encounter with officers, North  
18 began making statements consistent with praying, and that, among other things,  
19 he asked that the officers be forgiven. Admit that, at one point, Officer  
20 Anderson stated "we haven't done anything wrong" and "you should pray for  
21 yourself." Admit that, at some point, Officer Anderson stated that North should  
22 stop "babbling." Admit that Officer Anderson referenced North having "inner  
23 demons." The remaining allegations set forth in this paragraph of plaintiff's  
24 Complaint are denied.  
25  
26  
27  
28  
29

30           90. Deny.

1           91. The first sentence of this paragraph of plaintiff's Complaint  
2 constitutes a legal conclusion. Accordingly, it is neither admitted nor denied.  
3  
4 The second sentence is denied.

5           92. Admit that Officers Anderson and Sontgerath advised dispatch, the  
6 medics and the medical providers at PRH of their good faith belief that North  
7 was under the influence of some sort of drug. Deny that both knew North was  
8 not under the influence. Deny that officers thus knew their statements were  
9 untrue. Deny for lack of knowledge the allegation that Fountain denied that  
10 North had taken drugs. Admit that a search of North's car and person did not  
11 reveal drugs. Deny that there was no "evidence" of drugs on North's person, in  
12 that he had an empty prescription pill bottle with him at the Jack in the Box.  
13 Deny that Officer Sontgerath was "completely comfortable" allowing North to  
14 drive himself to the hospital. Admit that Officer Sontgerath's written report  
15 reveals that he asked North if he felt comfortable driving, and that North stated  
16 that he did. Admit that Commander Tennant's use of force written record  
17 indicates that drugs were involved, with the qualification that this was simply  
18 derived from the officers' use of force reports. In all other respects, the  
19 allegations contained in this paragraph of plaintiff's Complaint are denied.  
20  
21  
22  
23  
24  
25  
26  
27

28           93. Deny.

29           94. Deny.  
30

1           95. As the allegations set forth in this paragraph of plaintiff's constitute  
2 a legal conclusion, they are neither admitted nor denied. Deny that the conduct  
3 of the defendants created a dangerous situation that resulted in North's injuries.  
4

5           96. Deny.  
6

7                           **THIRD CLAIM FOR RELIEF**  
8                           **Disability Discrimination**

9           97. Defendants reassert their answers to the allegations contained in  
10 paragraphs 1 through 64, 66 through 83, and 85 through 96 of plaintiff's  
11 Complaint.  
12

13           98. As the allegations contained in this paragraph of plaintiff's  
14 Complaint constitute a legal conclusion, they are neither admitted nor denied.  
15 Deny that North was denied the privileges of law enforcement safety services  
16 and was affirmatively harmed.  
17  
18  
19

20           99. The first sentence of this paragraph of plaintiff's Complaint is  
21 denied. Admit that Officer Sontgerath, in reference to North's refusal to  
22 cooperate, stated that North was going to be subjected to police force if he  
23 continued to resist. Admit that officers warned North he would be tased if he  
24 continued to resist and refuse officer commands. Admit that, consistent with this  
25 warning, and because North continued to refuse officer commands and to  
26 struggle, he was tased three times.  
27  
28  
29  
30

1           100. Deny.

2                                   **FOURTH CLAIM FOR RELIEF**  
3                                   **Outrage**

4  
5           101. Defendants reassert their answers to the allegations contained in  
6 paragraphs 1 through 64, 66 through 83, 85 through 96, and 98 through 100 of  
7 plaintiff's Complaint.  
8

9           102. Deny.

10  
11          103. Deny.

12                                   **FIFTH CLAIM FOR RELIEF**  
13                                   **Battery**

14  
15          104. Defendants reassert their answers to the allegations contained in  
16 paragraphs 1 through 64, 66 through 83, 85 through 96, 98 through 100, and 102  
17 through 103 of plaintiff's Complaint.  
18

19          105. Deny.

20  
21          106. Deny.

22                                   **SIXTH CLAIM FOR RELIEF**  
23                                   **Assault**

24  
25          107. Defendants reassert their answers to the allegations contained in  
26 paragraphs 1 through 64, 66 through 83, 85 through 96, 98 through 100, 102  
27 through 103, and 105 through 106 of plaintiff's Complaint.  
28  
29  
30

1           108. Admit that Officers Anderson and Sontgerath made statements to  
2 North in the way of warnings and commands that were intended to cause him to  
3 apprehend the use of force and physical discomfort if he continued to resist. The  
4 remaining allegations set forth in this paragraph of plaintiff's Complaint are  
5 denied.  
6

7  
8           109. Deny.  
9

10                           **AFFIRMATIVE DEFENSES**

11           For further answer to plaintiff's Complaint as affirmative defenses thereto,  
12 defendants allege as follows:  
13

14                           **FIRST AFFIRMATIVE DEFENSE**

15           The plaintiff's claims under Section 1983, in whole or in part, are barred  
16 by qualified immunity.  
17

18                           **SECOND AFFIRMATIVE DEFENSE**

19           That plaintiff's common law claims are barred, in whole or in part, by  
20 state law qualified immunity and by the immunity provisions of RCW 71.05.120.  
21

22                           **THIRD AFFIRMATIVE DEFENSE**

23           Because of what responding officers were told about North and what they  
24 saw and observed at the Jack in the Box, all of North's claims are barred because  
25 officers had reasonable cause to believe North was suffering from a mental  
26  
27  
28  
29  
30

1 disorder or a substance use disorder and that he presented an imminent likelihood  
2 of serious harm or was in imminent danger because of being gravely disabled.  
3

4 **FOURTH AFFIRMATIVE DEFENSE**

5 The City of Pullman does not have any municipal or “official capacity”  
6 liability under 42 USC § 1983 based upon *Monell v. New York Department of*  
7 *Social Services*, 436 U.S. 658 (1978).  
8  
9

10 **FIFTH AFFIRMATIVE DEFENSE**

11 All actions of the defendants were performed in good faith, were  
12 reasonable, based on probable cause, and were within these defendants’ lawful  
13 authority.  
14  
15

16 **SIXTH AFFIRMATIVE DEFENSE**

17 Defendants did not violate any of plaintiff’s Constitutional or federally  
18 protected rights.  
19  
20

21 **SEVENTH AFFIRMATIVE DEFENSE**

22 The City of Pullman Police Department is not a legal entity capable of  
23 being sued. Accordingly, the City of Pullman Police Department must be  
24 dismissed.  
25  
26  
27  
28  
29  
30

1                                    **EIGHTH AFFIRMATIVE DEFENSE**

2                    The claims against Gary Jenkins and Christian Tennant are duplicative of  
3  
4 a *Monell* claim and, accordingly, Gary Jenkins and Christian Tennant should be  
5 dismissed.  
6

7                    WHEREFORE, having fully answered plaintiff's Complaint herein,  
8  
9 defendants pray that the same be dismissed with prejudice, that plaintiff take  
10 nothing thereby, and that defendants be awarded their costs and attorney fees  
11 under 42 USC § 1988 and RCW 4.24.350, and such other relief as the Court may  
12 deem just and equitable.  
13  
14

15                                    **JURY DEMAND**

16                    Defendants demand a trial by jury.

17  
18                    DATED this 28th day of September, 2018.

19                                    EVANS, CRAVEN & LACKIE, P.S.

20  
21                                    By s/ Christopher J. Kerley  
22                                    CHRISTOPHER J. KERLEY, #16489  
23                                    Attorneys for Defendants  
24                                    Evans, Craven & Lackie, P.S.  
25                                    818 W. Riverside Ave., Suite 250  
26                                    Spokane, WA 99201  
27                                    (509) 455-5200  
28                                    (509) 455-3632 facsimile  
29                                    [ckerley@ecl-law.com](mailto:ckerley@ecl-law.com)  
30



**CERTIFICATE OF SERVICE**

I hereby certify that on **September 28, 2018**, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Erica Krikorian  
CREER LEGAL  
11900 NE First Street, Suite 300G  
Bellevue, WA 98005  
[erica@creerlegal.com](mailto:erica@creerlegal.com)

Brian H. Krikorian  
LAW OFFICES OF BRIAN H. KRIKORIAN  
P.O. Box 6905  
11900 NE 1<sup>st</sup> Street, Suite 300, Bldg. G  
Bellevue, WA 98005  
[bhkrik@bhklaw.com](mailto:bhkrik@bhklaw.com)

Laura D. McAloon  
McALOON LAW PLLC  
421 W. Riverside Avenue, Suite 515  
Spokane, WA 99201  
[laura@mcaloon-law.com](mailto:laura@mcaloon-law.com)

EVANS, CRAVEN & LACKIE, P.S.

By s/ Christopher J. Kerley  
CHRISTOPHER J. KERLEY, #16489  
Attorneys for Defendants